

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

10 JACK SMITH,) Case No.: 13-CV-0595-LHK
11 v. Plaintiff,)
12) ORDER GRANTING APPLICATION TO
13 COUNTY OF SANTA CRUZ; JIM ROSS; JIM) PROCEED IN FORMA PAUPERIS;
14 HART; STATE OF CALIFORNIA; SANTA) ORDER CONTINUING CASE
15 CRUZ SUPERIOR COURT; SANTA CRUZ) MANAGEMENT CONFERENCE
16 BOARD OF SUPERVISORS; and DOES 1-10,)
17 Defendants.)
18 _____)

19 Before the Court is Plaintiff Jack Smith's ("Plaintiff") Application to Proceed In Forma
20 Pauperis. *See* ECF No. 2 ("Application").

21 Under the federal in forma pauperis statute, a court may authorize the commencement of a
22 suit without prepayment of the filing fee required by the clerk of the court if the plaintiff submits
23 an affidavit of poverty showing that he or she is "unable to pay such fees or give security therefor."
24 28 U.S.C. § 1915(a). However, even if the plaintiff makes an adequate showing of poverty, the
25 Court may deny leave to proceed in forma pauperis if it determines at the outset "from the face of
26 the proposed complaint that the action is frivolous or without merit." *Tripati v. First Nat'l Bank &*
27 *Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987); *see also* 28 U.S.C. § 1915(e); *Calhoun v. Stahl*, 245
28 F.3d 845, 845 (9th Cir. 2001) (per curiam) ("[T]he provisions of 28 U.S.C. § 1915(e)(2)(B) are not
limited to prisoners.").

Here, Plaintiff's Complaint, which alleges claims for civil rights violations, racketeering, selective prosecution, assault and battery, and negligent and intentional infliction of emotional distress, does not appear on its face to be frivolous or malicious. Furthermore, Plaintiff has declared under penalty of perjury that he is not presently employed; he does not own a home; his bank account balance is \$100.00; his monthly expenses are \$710.00 and his sole source of income is \$1,080.00 from Social Security. *See Application at 1-3.* Plaintiff has thus adequately shown that he is unable to pay the fees required to commence this lawsuit.

Accordingly, the Court hereby GRANTS Plaintiff's motion to proceed in forma pauperis. The Clerk of the Court shall issue summons.

No summonses have been issued, and Plaintiff has not yet served any of the Defendants. Accordingly, to permit Plaintiff additional time to serve Defendants, the Case Management Conference scheduled for May 15, 2013 is hereby CONTINUED to June 19, 2013, at 2:00 p.m.

IT IS SO ORDERED.

Dated: April 24, 2013

Lucy H. Koh
LUCY H. KOH
United States District Judge